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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,423	01/04/2002	Nicholas Want	ATA-232CN	1748
7590	05/03/2005		EXAMINER ANDERSON, CATHARINE L	
Kevin J. Canning Esq. Lahive & Cockfield, LLP 28 State Street Boston, MA 02109			ART UNIT 3761	PAPER NUMBER

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/039,423

Applicant(s)

WANT ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 64-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments with respect to the rejection(s) of claim(s) 64-68 under 37 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of figure 6 of Reidener (2,173,637).

Applicant's arguments with respect to claims 69-73 have been fully considered but they are not persuasive. The handles disclosed by Herweck and Christian are fully capable of being grasped by two people simultaneously, as stated in the Office Action dated 1/12/2005. Even a handle only a few inches long can be held by two hands at once. Nothing in the structure of the handles of Herweck or Christian prevent two people from simultaneously grasping the handles.

The Examiner never invoked an *obviousness* argument, since there is no need to modify the handles of Herweck or Christian. In the Office Action dated 1/12/2005, the Examiner stated that the *instant specification* admits on page 6, lines 30-32, that it would be obvious to modify the size of the handles. However, since Herweck and Christian both already anticipate the claimed invention, the Examiner does not need to rely on such an admission.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 64-68 are rejected under 35 U.S.C. 102(b) as being anticipated by Riedener (2,173,637).

Riedener discloses a fluid recover system, as shown in figure 6, comprising a housing having a top surface 13' and a collection chamber 13. The collection chamber 13 collects a volume of liquid, as disclosed in column 2, lines 22-26. A latching connector has a connecting element 26 and a mating connecting element 28 for connection with a tube 17. The connecting element is integrally molded to the top surface 13', as shown in figure 6.

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With respect to claim 65, the integrally molded connecting element is shown in figure 6 as being a female portion configured to receive the mating connecting element 27.

With respect to claim 66, the integrally molded connecting element 28 is shown in figure 6 as being a male portion configured to receive the mating connecting element 26.

With respect to claim 67, the integrally molded connecting element 28 extends above the top surface 13' and is therefore conveniently accessible, as shown in figure 6.

With respect to claim 68, connection and disconnection of the integrally molded connecting element 28 involves only attachment or removal of mating connecting element 26, which is capable of being performed with one hand.

Claims 69, 70, and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Herweck et al. (5,286,262).

Herweck discloses a fluid recovery system, as shown in figure 1, comprising a housing 10 having a top surface and a collection chamber 12. A handle 210 is coupled to the top surface and raised above other components on the top surface. The handle 210 is fully capable of being held by two people simultaneously.

With respect to claim 70, the handle 210 is integrally molded to the housing 10, as disclosed in column 16, lines 5-6.

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With respect to claim 72, the handle 210 is sized and dimensioned such that it is taller than the other components on the top surface, as shown in figure 1, and therefore will provide protection to the other components should an object fall on the top surface.

Claims 69 and 73 are rejected under 35 U.S.C. 102(e) as being anticipated by Christian et al. (6,152,902).

Christian discloses a fluid recovery system, as shown in figure 1, comprising a housing 12 having a top surface, as shown in figure 4. A handle 54 is coupled to the top surface and raised above other components on the top surface, as shown in figure 4. The handle 54 is fully capable of being held by two people simultaneously.

With respect to claim 73, the handle 54 is centered front to back and laterally, as shown in figure 1, and therefore the fluid recovery system will be balanced when lifted by the handle 54.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herweck et al. (5,286,262).

Herweck discloses all aspects of the claimed invention with the exception of the handle being about 5 inches long. Herweck discloses in column 16, lines 8, the handle

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being about 4 inches long. It would have been obvious to one of ordinary skill in the art at the time of invention to make the handle about 5 inches long, since it has been held that where the general conditions of the claim are disclosed in the art, determining the optimum or workable ranges involves only routine skill in the art. *In re Allen*, 105 USPQ 233.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WM
cla
April 26, 2005



Larry I. Schwartz
Supervisory Patent Examiner
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